

PUBLIC CHAPTER NO. 1092

HOUSE BILL NO. 3958

By Representatives Curtiss, Shaw, Fincher, Jim Cobb

Substituted for: Senate Bill No. 4028

By Senators Burks, Lowe Finney

AN ACT to amend Tennessee Code Annotated, Title 5; Title 6; Title 7; Title 8, Chapter 26; Title 8, Chapter 27; Title 8, Chapter 35; Title 9, Chapter 21; Title 12, Chapter 9; Title 12, Chapter 10 and Title 41 to enact the "Regional Jail Authority Act".

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 41, is amended by adding Sections 2 through 25 of this act as a new, appropriately designated chapter.

SECTION 2. This act shall be known and may be cited as the "Regional Jail Authority Act".

SECTION 3.

(a) It is declared that a regional jail authority created pursuant to this act shall be a public and governmental body acting as an agency and instrumentality of the creating and participating governmental entities; and that the powers exercised by such an authority are declared to be for a public and governmental purpose and a matter of public necessity.

(b) The property and revenues of the authority, or any interest in the property or revenues, are exempt from all state, county and municipal taxation, except inheritance, transfer and estate taxes.

SECTION 4. The general purpose of an authority created pursuant to this act is declared to be that of acquiring, constructing, equipping, maintaining, and operating a jail or workhouse or jails or workhouses and the usual facilities appertaining to such undertakings; enlarging, renovating, and improving such facilities; acquiring the necessary property therefor, both real and personal, with the right of contract for the use of or to lease, mortgage, or sell any or all of such facilities, including real property; and in the sale or purchase or any such property to comply with state or local purchasing laws; and doing any and all things deemed by the authority necessary, convenient, and desirable for and incident to the efficient and proper development and operation of such types of undertakings.

SECTION 5.

As used in this act, unless the context otherwise requires:

(1) "Authority" means a regional jail authority created pursuant to the provisions of this act;

(2) "Board" means the board of commissioners of an authority;

(3) "Bonds" includes notes, interim certificates or other obligations of an authority;

(4) "Creating governmental entity" means a county, including a county that has a metropolitan form of government, or a municipality which by resolution or ordinance of its governing body elects to join together with one (1) or more counties or one (1) or more municipalities to create an authority pursuant to this act;

(5) "Executive officer" means the county mayor or other chief executive officer of any creating or participating governmental entity;

(6) "Governing body" means the chief legislative body of any local governmental entity;

(7) "Jail" include workhouses in accordance with title 41, chapter 2, part 1;

(8) "Local governmental entity" means any county, including a county having a metropolitan form of government, and may include a municipality as herein defined;

(9) "Municipality" means a municipality which has a municipal jail and has concurrent jurisdiction with the general sessions court over state misdemeanors or which pursuant to §16-18-311 builds a jail and obtains approval to acquire such concurrent jurisdiction, to create or participate in an authority pursuant to this act;

(10) "Participating governmental entity" means a local governmental entity, which pursuant to a resolution, or in the case of a municipality an ordinance, of its governing body, elects to participate in a regional jail authority;

(11) "State" means the state of Tennessee.

SECTION 6.

(a) The governing bodies of two (2) or more local governmental entities, may create a regional jail authority in the manner provided for in this act. Such authority shall be subject to all rights, privileges, and obligations contained in §§ 41-4-139, 41-4-140, 41-7-103, and title 41, chapter 8, part 1.

(b)

(1) Each governing body of a governmental entity proposing to create an authority shall adopt, and its executive officer shall approve, a resolution calling a joint public hearing involving all interested local governmental entities in the enterprise to create a regional jail authority on the question of creating an authority.

(2) Notice of the date, hour, place and purpose of the hearing shall be published at least once each week for two (2) consecutive weeks in a newspaper of general circulation in the jurisdictional bounds of the governmental entity proposing to create an authority, the last publication to be at least one (1) week prior to the date set for the hearing.

(c) The hearing shall be had before the combined governing bodies of the respective local governmental entities pursuing the creation of a regional jail authority and all interested persons shall have an opportunity to be heard.

(d)

(1) After the hearing, if at least two (2) governing bodies determine that the public convenience and necessity require the creation of an authority, such governing bodies shall individually adopt, and its executive officer shall approve, a resolution or an ordinance, in the case of a municipality, so declaring and creating an authority, which resolution or ordinance shall reference this act as the governing statute to create the authority and include the names of the creating governmental entities, the name of the authority and also designate the name and principal office address of the authority.

(2) A certified copy of the resolution or ordinance shall be filed with the secretary of state, along with the resolution approving the appointment of the board of commissioners as provided for Section 7 of this act, and upon that adoption and filing, the authority shall constitute a body politic and corporate, with all the powers provided in this act.

(e) Whenever an authority is created under this act, the creating governmental entity and any participating governmental entity shall enter into an agreement with the authority for the orderly transfer of jail or correctional employees of the governmental entities to the authority.

(f) Each governmental entity participating in the authority shall pay their pro rata share of all expenses and costs of the authority.

SECTION 7.

(a) The board of the authority shall be a board of commissioners appointed as follows:

(1) If the creating or participating governmental entities include only one county and a municipality or municipalities, all of which are located within the same judicial district, the board shall consist of:

(A) The chief executive officer of each local governmental entity participating;

(B) The sheriff of the county which participates in the authority;

(C) One member to be selected by the county legislative body of such county;

(D) The comptroller of the state of Tennessee or the comptroller's designee;

(E) The commissioner of the department of correction, or the commissioner's designee;

(F) The district attorney serving the judicial district in which such local governmental entities are located, or the district attorney's designee;

(G) The district public defender serving the judicial district in which such local governmental entities are located or the district public defender's designee;

(H) One judge selected by the judges serving the judicial district in which such local governmental entities are located or the judge's designee; and

(I) For each municipality electing to be a part of the authority, in addition to the mayor of the municipality, one (1) member of the governing body of the municipality selected by such governing body.

(2) If the creating or participating governmental entities include more than one county, with or without a municipality which may be a participant, all of which are located within the same judicial district, the board shall consist of:

(A) The chief executive officer of each local governmental entity participating;

(B) The sheriff of each county which participates in the authority;

(C) One member to be selected by the county legislative body of each county;

(D) The comptroller of the state of Tennessee or the comptroller's designee;

(E) The commissioner of the department of correction, or the commissioner's designee;

(F) The district attorney serving the judicial district in which such local governmental entities are located or the district attorney's designee;

(G) The district public defender serving the judicial district in which such local governmental entities are located or the district public defender's designee;

(H) One judge selected by the judges serving the judicial district in which such local governmental entities are located or the judge's designee;

(I) For each municipality electing to be a part of the authority, in addition to the mayor of the municipality, one (1) member of the governing body of the municipality selected by such governing body.

(3) If the creating or participating governmental entities include more than one county, with or without a municipality which may be a participant, some of which are located within different judicial districts, the board shall consist of:

(A) The chief executive officer of each local governmental entity participating;

(B) The sheriff of each county which participates in the authority;

(C) One member to be selected by the county legislative body of each county;

(D) The comptroller of the state of Tennessee or the comptroller's designee;

(E) The commissioner of the department of correction, or the commissioner's designee;

(F) A district attorney selected by the district attorney general's serving the judicial districts in which such local governmental entities are located or the district attorney's designee;

(G) The district public defender selected by the district public defenders serving the judicial districts in which such local governmental entities are located or the district public defender's designee;

(H) One judge selected by the judges serving the judicial districts in which such local governmental entities are located or the judge's designee;

(I) For each municipality electing to be a part of the authority, in addition to the mayor of the municipality, one (1) member of the governing body of the municipality selected by such governing body.

(b) Each such official shall be a member of the board for the term of office for which such official was elected.

(c)

(1) Any vacancy by reason of nonresidence, incapacity, resignation or death shall be filled in the same manner as the original appointment for the unexpired term.

(2) A commissioner's term shall continue until the appointment and qualification of that commissioner's successor.

(3) A commissioner may be removed from office by a two-thirds (2/3) vote of the governing body of the governmental entity of the specific officers that made the appointment, but only after notice of the cause of the removal is served on the commissioner, and only after the commissioner is granted an opportunity for a public hearing on the cause.

(d)

(1) The board shall elect from among its members a chair and vice chair, each of whom shall continue to be voting members, and shall adopt its own bylaws and rules of procedure.

(2) A majority of the commissioners shall constitute a quorum for the transaction of business.

(3) Except as expressly otherwise specified in this act, all powers granted in this part to an authority shall be exercised by the board.

(4) Commissioners may receive compensation for their services and shall receive per diem and may be reimbursed for necessary expenses incurred in the performance of their official duties in an amount to be established by the board; provided that the reimbursement for expenses and mileage shall not exceed the comprehensive travel regulations for reimbursement for expenses and mileage promulgated by the commissioner of finance and administration and approved by the attorney general and reporter.

SECTION 8.

(a)

(1) Subject to subsection (b), any local governmental entity may become a member of an authority after its creation subject to following the requirements for a public hearing and notice in accordance with Section 6.

(2) Any governmental entity which is a member of an existing authority may withdraw therefrom, but no governmental entity shall be permitted to withdraw from any authority after any obligation has been incurred by the authority except by unanimous vote of all members of the authority, and after providing for an appropriate manner to hold the authority harmless concerning such governmental entity's share of any existing indebtedness incurred by the authority during such governmental entity's inclusion in the authority. The governing body of any governmental entity wishing to withdraw from an existing authority shall signify its desire by resolution or ordinance, as appropriate.

(b) The governing body of any governmental entity wishing to become a member of an existing authority and the governing bodies of the governmental entities then members of the authority shall by concurrent resolutions or ordinances or by agreement provide for the joinder of such governmental entity, identifying the name, address and term of office of initial appointments to the expanded membership in accordance with Section 7 of this act. The requirements of Section 6 likewise apply to any action of such governing body.

SECTION 9.

(a) The board shall appoint an executive director, who shall be the chief executive and administrative officer of the authority who shall serve at the board's pleasure. The board shall enter into a contract with the executive director establishing the director's compensation and term of office.

(b) The executive director is responsible for all personnel matters related to the authority, including, but not limited to, recruitment, discipline and compensation.

(c)

(1) The executive director shall annually prepare the operating budget of the authority and submit the budget to the board for approval at least sixty (60) days prior to the beginning of the fiscal year.

(2) If the board has not acted on the budget by the first day of the fiscal year, the previous fiscal year's budget shall automatically go into effect and become the budget for the current fiscal year until the board acts on the budget for the current fiscal year.

(d) The executive director shall also submit periodic reports to the board that it may direct.

(e) The executive director shall attend all meetings of the board.

SECTION 10.

An authority shall be deemed to be an instrumentality exercising public and essential governmental functions to provide for the public safety and welfare, and each such authority is authorized and empowered and has all powers necessary to accomplish the purposes of this act, excluding the power to levy and collect taxes. The powers include, but are not limited to, the following:

(1) Have perpetual succession, sue and be sued, and adopt a corporate seal;

(2) To acquire by gift, purchase, lease, or otherwise, and to hold, to sell, at public or private sale, or exchange, lease, mortgage, pledge, subordinate interest in, or otherwise dispose of real and personal property of every kind and character for its purposes;

(3) Enter into agreements with the creating or participating governmental entities to acquire by lease, gift, purchase or otherwise, any jail, or portion thereof, owned by any creating or participating governmental entity and for the operation of the jail as part of the authority;

(4) Enter into, by contract with the creating or participating governmental entities or otherwise, a plan for pension, disability, hospitalization and death benefits for the officers and employees of the authority which may include participation in the Tennessee consolidated retirement system as provided in title 8, chapter 35, part 2, or the group insurance for local governments as provided in title 8, chapter 27, part 4 and for such purposes the authority is deemed to be a quasi-governmental organization pursuant to § 8-27-207;

(5) To appoint, select, and employ an executive director or such other officers, agents, and employees, including a superintendent of the regional jail facility as provided in Section 15, and necessary jail officers and employees therefor, and also including engineering and construction experts, fiscal agents and attorneys, and to fix their respective compensations;

(6) Enter into agreements with the creating or participating governmental entities with respect to the manner of transfer of jail or correctional employees of the governmental entities to the authority, and with respect to the retention by those employees of accrued pension, disability, hospitalization and death benefits;

(7) Use in the performance of its functions the officers, agents, employees, services, property, facilities, records, equipment, rights and powers of the creating or participating governmental entities, with the consent of any such governmental entity, and subject to any terms and conditions that may be agreed upon;

(8) To make contracts and leases and to execute all instruments necessary or convenient, including contracts for construction and financing of projects and leases of projects or contracts with respect to the use of projects which it causes to be erected or acquired, and to dispose by conveyance of its title in fee simple of real and personal property of every kind and character, and any and all governmental entities, departments, institutions, or agencies of the state are hereby authorized to enter into contracts, leases, or agreements with the authority upon such terms and for such purposes as they deem advisable and to establish and charge fees, rates and other charges, as set out in this act or other provisions of law, and collect revenues from the fees, rates and other charges, not inconsistent with the rights of the holders of its bonds;

(9) To construct, erect, acquire, own, repair, remodel, maintain, add to, extend, improve, equip, furnish, operate, and manage projects, the cost of any such project to be paid in whole or in part from the proceeds or other funds made available to the authority;

(10) To accept loans and grants of money or materials or property of any kind from the United States of America or any agency or instrumentality thereof, upon such terms and conditions as the United States of America or such agency or instrumentality may impose;

(11) To accept loans and grants of money or materials or property of any kind from the state of Tennessee or any agency or instrumentality or governmental entity thereof, upon such terms

and conditions as the state or such agency or instrumentality or governmental entity may impose;

(12) To enter into contracts to house state prisoners in accordance with title 41, chapter 8, part 1;

(13) To borrow money for any of its corporate purposes and to execute evidences of such indebtedness and to secure the same and in accordance with title 9, chapter 21 to issue negotiable general obligation notes or bonds or revenue bonds payable solely from funds pledged for that purpose and to provide for the payment of the same and for the rights of the holders thereof. Any municipality or county participating in the authority may lend, advance, or give money or materials or property of any kind to the authority;

(14) To exercise any power usually possessed by private corporations or counties performing similar functions, which is not in conflict with the Constitution and laws of the state of Tennessee;

(15) An authority created pursuant to this act and any trustee acting under any trust indenture are specifically authorized from time to time to sell, lease, grant, exchange, or otherwise dispose of any surplus property, both real and personal, or interest therein not required in the normal operation of and usable in the furtherance of the purpose for which the authority was created in the manner provided by law;

(16) To adopt, amend, or repeal bylaws, rules, and regulations, not inconsistent with this act, the general laws of the state of Tennessee, or the standards of the Tennessee corrections institute in accordance with § 41-4-140, for the regulation of its affairs, the conduct of its business, the operation of any jail or other project constructed or maintained and to carry into effect its powers and purposes;

(17) Designate an independent certified public accountant firm to do an annual post audit of all books, accounts and records of the authority and issue a public report on the audit; in addition the authority shall be subject to audit by the comptroller of the treasury;

(18) Adopt by majority vote of the board purchasing procedures consistent with the requirements of the County Purchasing Law of 1983, compiled in title 5, chapter 14, part 2; and

(19) To do all things necessary or convenient to carry out the powers expressly given in this act.

SECTION 11. The provisions of title 41, chapter 4, part 1 concerning requirements applied to jails and jailers shall apply with regard to any jail owned or operated by the authority.

SECTION 12.

(a) Subject to subsection (e), an authority has the power to condemn either the fee or any right, title, interest or easement in property that the board may deem necessary for any of the purposes authorized in this act, and the property or interest in that property may be so acquired whether or not the property or the interest in the property is owned or held for public use by corporations, associations or persons having the power of eminent domain, or otherwise held or used for public purposes as it may deem necessary or convenient for the construction and operation of the project upon such terms and at such prices as may be considered by it to be reasonable and can be agreed upon between it and the owner thereof; provided, that prior public use shall not be interfered with by this use.

(b) The power of condemnation may be exercised in the mode or method of procedure prescribed by title 29, chapter 17, or in the mode or method of procedure prescribed by any other applicable statutory provisions now in force or hereafter enacted for the exercise of the power of eminent domain.

(c) All public agencies and the commissions of the state, with the approval of the governor, are hereby authorized and empowered to lease, lend, grant, or convey to an authority created pursuant to this act at its request, upon such terms and conditions as may be mutually agreed upon, without the necessity for any advertisement, order of court, or other action or formality, any real property which may be necessary or convenient to the effectuation of the authorized purposes of the authority, including real property already devoted to public use.

(d) Title to any property acquired by an authority created pursuant to this act shall be taken in the name of the authority.

(e) No authority shall locate a jail in a governmental entity which is not a participating governmental entity in the authority unless the governing body of the nonparticipating governmental entity grants express consent to such location.

SECTION 13. Any creating or participating governmental entity has all necessary powers in order to further the purposes of this act, including, but not limited to, the following, any or all of which powers may be exercised by resolution or ordinance of the governmental entity's governing body, to:

(1) Advance, donate or lend money on real or personal property to the authority;

(2) Provide that any funds on hand or to become available to the governmental entity for jail purposes shall be paid directly to the authority;

(3) Sell, lease, dedicate, donate or otherwise convey to the authority any of the governmental entity's interest in any existing jail or other related property, or grant easements, licenses or other rights or privileges therein to the authority;

(4) Enter into agreements with the authority with regard to the transfer of the governmental entity's employees to the authority with the retention by the employees of any accrued rights in pension, disability, hospitalization and death benefits; and

(5) Permit the governmental entity's rights, duties and powers under the governmental entity's charter or the laws of the state to be performed or exercised by the authority.

SECTION 14.

(a) The commissioners, all appointed officers, and all personnel employed by the board of commissioners of any regional jail authority under this act, are prohibited from receiving any money or other goods or services of value of any sort as a result of any agreement, contractual or otherwise, related to services performed for the authority; and further, those persons are also prohibited from receiving any moneys or other goods or services of value of any sort as a result of any agreement, contractual or otherwise, for the sale of any materials to be installed in any facility owned or operated by the authority.

(b) Authorities shall provide information requested for the county growth plan to the county or counties in which they provide service. The plans, services, and projects of an authority shall be consistent with the relevant county growth plan.

(c) For purposes of lawfully carrying a weapon, any regional jail officer shall be permitted to carry a weapon to the same extent that a county or municipal jail officer or correction officer is permitted to carry a weapon.

SECTION 15. The authority is authorized to appoint a superintendent to administer any jails owned or operated by the authority. The superintendent shall have and exercise the same control and authority over the prisoners committed or transferred to such facilities as the sheriffs have by law over the prisoners committed or transferred to their jails.

An authority created pursuant to this act may require the superintendent or jail officers or both to give bond in such penalty and with such security as the authority may prescribe, conditioned upon the faithful discharge of the duties of their offices.

SECTION 16.

(a)

(1) The authority has the power to issue negotiable bonds, in accordance with title 9, chapter 21, from time to time in order to accomplish any of the purposes authorized by this act. The authority also has the power to issue bonds in the same manner and under the same provisions as municipalities or metropolitan governments or counties are empowered to issue bonds under the laws of this state, for the purposes authorized by this act.

(2) All these bonds shall be payable from all or any part of the revenues, income and charges of the authority and the bonds may also constitute an obligation of one (1) or more of the creating and participating governmental entities.

(b)

(1) The bonds shall be authorized by resolution of the board, be issued in accordance with title 9, chapter 21, and shall bear such date, mature at such time or times, bear interest at such rate or rates payable annually or semiannually, be in such form and denominations, be subject to such terms of redemption with or without premium, carry such registration privileges, be payable in such medium and at such place or places, be executed in such manner, all as may be provided in the resolution authorizing the bonds.

(2) The bonds may be sold at public or private sale in such manner and for such amount as the board may determine.

(c) The resolution may include any covenants that are deemed necessary by the board to make the bonds secure and marketable, including, but not limited to, covenants regarding:

(1) The application of the bond proceeds;

(2) The pledging, application and securing of the revenues of the authority;

(3) The creation and maintenance of reserves;

(4) The investment of funds;

(5) The issuance of additional bonds;

(6) The maintenance of minimum fees, charges and rentals;

(7) The operation and maintenance of the authority's facilities;

(8) Insurance and insurance proceeds;

(9) Accounts and audits;

(10) The sale of authority properties;

(12) The vesting in a trustee or trustees such powers and rights as may be necessary to secure the bonds and the revenues and funds from which they are payable;

(13) The terms and conditions upon which bondholders may exercise their rights and remedies;

(14) The placement of lost, destroyed or mutilated bonds;

(15) The definition, consequences and remedies of an event of default;

(16) The amendment of such resolution; and

(17) The appointment of a receiver in the event of a default.

(d) Any holder of any such bonds, including any trustee for any bondholders, may enforce their rights against the authority, its board or any officer, agent or employee of the authority, by mandamus, injunction or other action in any court of competent jurisdiction, subject to the covenants included in the bond resolution.

(e)

(1) Sums received as accrued interest from the sale of any bonds may be applied to the payment of interest on the bonds.

(2) All sums received as principal or premium from the sale shall be applied to the purpose for which the bonds were issued, and may include, but not be limited to, expenses for fiscal, legal, engineering and architectural services, expenses for the authorization, sale and issuance of the bonds, expenses for obtaining an economic feasibility survey in connection with the bonds, and to create a reserve for the payment of not exceeding one (1) year of interest on the bonds.

(f) Bonds issued pursuant to this act executed by officers in office on the date of the execution shall be valid obligations of the authority, notwithstanding that before the delivery of the bonds, any or all of the persons executing the bonds shall have ceased to be officers.

(g) Bonds issued pursuant to this act, and the income from the bonds, shall be exempt from all state, county and municipal taxation except inheritance, transfer and estate taxes.

(h) All public officers and bodies of the state, municipal corporations, governmental entities, all insurance companies and associations, all savings banks and savings institutions, including savings and loan associations, all executors, administrators, guardians, trustees, and all other fiduciaries in the state may legally invest funds within their control in bonds of an authority.

(i) Any bonds upon which any creating governmental entity, or participating governmental entity, is jointly obligated with the authority may be secured by the full faith and credit and taxing powers of the governmental entity.

SECTION 17.

(a) Whenever the governing bodies of the creating governmental entity and the participating governmental entities each, by resolution or ordinance, determine that the purposes for which the authority was created have been substantially accomplished, that all of the bonds and other obligations of the authority have been fully paid, and that such governmental entities have agreed on the distribution of the funds and other properties of the authority, then the executive officers of the governmental entities shall execute and file for record with the secretary of state a joint certificate of dissolution reciting those facts and declaring the authority to be dissolved.

(b) Upon this filing, the authority shall be dissolved, and title to all funds and other properties of the authority at the time of dissolution shall vest in and be delivered to the governmental entities in accordance with the terms of their agreement relating to the dissolution.

SECTION 18.

(a) The powers conferred by this act shall be in addition and supplemental to the powers conferred by any other law, and are not in substitution for those powers, and the limitations imposed by this act shall not affect those powers.

(b) The powers granted in this act may be exercised without regard to requirements, restrictions or procedural provisions contained in any other law or charter, except as expressly provided in this act.

(c) Any metropolitan government or any home rule municipality authorized under this act to participate in a regional jail authority pursuant to this act may do so without the necessity of a charter amendment, notwithstanding anything in its charter to the contrary.

SECTION 19.

(a) The national policy in favor of competition shall ensure a policy of competitive bidding for all authorities.

(b) An authority shall be subject to the County Purchasing Law of 1983, compiled in title 5, chapter 14, part 2.

SECTION 20. The authority shall be considered a governing body for purposes of the Open Meetings Act, codified at title 8, chapter 44.

SECTION 21. The authority shall be considered a governmental entity for purposes of the Tennessee Governmental Tort Liability Act, codified at title 29, chapter 20.

SECTION 22. The authority shall be considered a public agency for purposes of the Interlocal Cooperation Act, codified at title 12, chapter 9.

SECTION 23. The records of such authority shall be open to public inspection in accordance with The Open Records Act, codified at title 10, chapter 7, part 5.

SECTION 24. If any provision of law or private act conflicts with the provisions of this act, the provisions of this act shall prevail.

SECTION 25. This act is remedial in nature and shall be liberally construed to effect its stated purposes and the powers herein granted may be exercised without regard to requirements, restrictions or procedural provisions contained in any other law or charter except as herein expressly provided.

SECTION 26. Tennessee Code Annotated, Title 41, Chapter 8, Part 1, is amended by adding the following language as a new, appropriately designated section:

Section _____. A regional jail authority created pursuant to this act is authorized to participate in the program created pursuant to this part in the same manner and to the same extent as counties are authorized to participate.

SECTION 27. Tennessee Code Annotated, Title 8, Chapter 35, Part 2, is amended by adding the following language as a new, appropriately designated section:

Section ____.

(a) A regional jail authority created by two (2) or more counties or municipalities pursuant to this act may request approval of the board of trustees to become a participating employer in the Tennessee consolidated retirement system upon satisfying the following conditions:

(1) The board of commissioners of the authority passes a resolution authorizing an actuarial study to determine the liability associated with such participation, and accepting responsibility for the costs of such study; and

(2) Following receipt of the actuarial study, the board of commissioners of the authority passes a resolution authorizing such participation and accepting the liability therefor.

(b) The employees of the authority shall make the same contributions, participate in the same manner, and shall be eligible for the same benefits as employees of other local governments participating in the retirement system under this part.

(c) The employees shall be entitled to credit for prior service as approved by the board of commissioners of the

authority under the same provisions which apply to employees of other local governments.

(d) The retirement system shall not be liable for the payment of retirement allowances or other payments on account of employees of the authority or their beneficiaries, for which reserves have not been previously created from funds contributed by the authority and/or its employees.

(e) It is the legislative intent that the state shall realize no increased cost as a result of this section. All costs associated with retirement coverage, including administrative costs, shall be the responsibility of the authority.

(f) If an authority is admitted and participates in the retirement system pursuant to this section, any county or municipality becoming a member of the authority by agreement after its coverage in the retirement system shall, as a condition of such agreement, be deemed to have accepted its share of the liability incurred by the authority's participation.

(g) In case of the withdrawal of an authority as a participating employer, the benefits of the members and beneficiaries shall be determined in accordance with the provisions of § 8-35-211.

SECTION 28. If any provision of this act or the application thereof to any person or circumstance is held to be invalid, such invalidity shall not affect any other provision or application of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 29. For purposes of promulgating rules and regulations, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes this act shall take effect October 1, 2008, the public welfare requiring it.

PASSED: May 15, 2008


JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


RON RAMSEY, SPEAKER
SENATE OF THE SENATE

APPROVED this 3rd day of June 2008



PHIL BREDESEN, GOVERNOR